

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00360-MR-WCM

**MARTIN J. WALSH, Secretary of
Labor, United States Department
of Labor,**

Plaintiff,)

vs.

**LOVIN CONSTRUCTION COMPANY,)
INC., and BRANDON LOVIN, an)
individual,)**

Defendant.)

ORDER

THIS MATTER is before the Court on the Defendants' Motion for Judgment on the Pleadings [Doc. 6] and the Magistrate Judge's Memorandum and Recommendation [Doc. 12] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motion and to submit a recommendation for its disposition.

On May 25, 2022, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the pending motion. [Doc. 12]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that the Defendants' Motion for Judgment on the Pleadings should be granted, and that the Plaintiff's Complaint should be dismissed without prejudice.

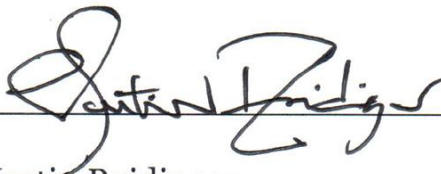
The Magistrate Judge also recommended that the parties be directed to participate in a mediated settlement conference prior to the filing of an Amended Complaint. The Court declines to direct the parties to conduct a mediated settlement conference at this time, although the parties are free to continue to engage in settlement discussions.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 12] is **ACCEPTED IN PART** and **REJECTED IN PART**; the Defendants' Motion for Judgment on the Pleadings [Doc. 12] is **GRANTED**; and the Plaintiff's Complaint is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Plaintiff shall have thirty (30) days in which to file an Amended Complaint in accordance with the terms of this Order and the Memorandum and Recommendation. If the Plaintiff fails to adequately amend the Complaint in the time required, this action will be dismissed without prejudice and without further notice to the Plaintiff.

IT IS SO ORDERED.

Signed: June 13, 2022



Martin Reidinger
Chief United States District Judge

